

In response to these rejections, attached on separate sheets are claims in accordance with current practice where all claims are listed. Claims that have been previously amended are labeled that they are previously amended. Claims that are currently amended are labeled as currently amended. Here, the previous Claims 1, 6, 12, and 17 were previously amended and are labeled on the claims. The other claims are labeled as originals, with the exception of Claim 2, which is amended in response to the Examiner's Office Action. In Claim 2, a comma has been added after the "1" and the second term "said elongated piece" has been struck through, indicating that this phrase needs to be removed from the claim. It is believed that these changes meet the objection of the Examiner of the regarding Claim 2.

Claim Rejections - 35 U.S.C. § 102

The Examiner rejected Claims 1-3, 12 and 13 under 35 U.S.C. 102 (b) as being anticipated by Haber, U. S. Patent #2,893,158. The detailed grounds for the rejection under § 102 offered by the Examiner in the Office Action dated 04/29/03 are word-for-word identical to the Office Action dated 11/05/02, which was a final Office Action in the underlying parent patent application to the current continuation application.

This word-for-word repeat of grounds for rejection create created problems for the Applicant in responding to this Office Action. The Examiner's detailed basis for the claims rejection differs from statements given under the heading in the Examiner's 04/29/2003 Office Action entitled "Response to Arguments". For example, the detailed action states that: "...Haber shows a fishing rod having a throwing projectile (36) with a bore, (44), (45)..." However, the Response to the Arguments the Examiner concedes that Haber's retainer elements (44) (45) are not a bore in the throwing projectile. Consequently, Applicant is at a loss to know the position of

the Examiner in this matter. Is it still the Examiner's position that the Haber disk (36) has a bore (44) (45) as stated in the current detailed Office Action or is the Examiner's position that the Haber's disk (36) has an unlabeled bore as stated in the response section?

In order to facilitate the Response to the Office Action, the Applicant will presume that the detailed basis is stating the Examiner's position and will respond to that. Then, at a later point, the Applicant will respond to and comment on the Examiner's "Response to Arguments" section of the 04/29/03 Office Action.

Response to Claims Rejections 1-3-12-13 on Page 4 of Office Action

The examiner first reasons that the Haber U.S. Patent #2,893,158 shows: "... a fishing rod having a throwing projectile (36) with a bore (44, 45) therethrough as shown in Figures 1-5." Applicant respectfully traverses the conclusion of the examiner that retainer elements (44, 45) constitute a bore on the throwing projectile (36). For the Haber device to function, it is only necessary that the throwing projectile (36) have means to attach fishing line section to one side of the throwing projectile (36) and a second means for attaching a second portion of a fishing line projectile (36). Indeed, in Figure 6 of the Haber patent, different sections of fishing line (55, 56) are shown. The Haber throwing projectile (36) must be attached to the fishing lines by some expedient, be it the retainer elements (44, 45) or loops (53, 54), or the anchor loop (66). The retainer elements (44, 45) do not form a bore on the projectile (36) and no bore is required for the Haber reference to work. The examiner then goes on to reason that Haber: "... shows a second throwing projectile section (28) whereby the throwing projectile (36) slides upon the throwing projectile section by the throwing projectile bore." In Applicant's response to the first Office Action, the Applicant respectfully requested clarification as to what is meant by the "throwing

projectile bore.” The examiner has not explained in the 04/29/03 detailed Office Action. As shown above, the retainer elements (44, 45) do not constitute a bore and the disk (36) does not slide upon the body section (28) by means of the retainer elements (44, 45). If there is some other bore in the disk (36) which slides upon the body section (28), the Applicant respectfully requests the examiner identify this bore by showing where in the Haber reference this bore is shown and where it is shown how it slides onto the body section (28). If the examiner cannot offer this explanation, Applicant requests the 102 rejection be withdrawn.

The examiner next reasons that Haber shows: “...an elongated piece (17) and a first mounting section (27) for mounting the elongated piece (17) on the terminal end of a fishing rod (15).” Applicant respectfully traverses the conclusion of the examiner that “the elongated piece (17) has a first mounting section (27).” The Haber reference discloses the brace (27) for mounting the tip (17). The brace (27) is not described or shown as part of the tip (17). In this application the elongated tube (12) has a mounting end (13) and a projectile end (14). The mounting end (13) is an integral part of the elongated tube (12) and is used to mount the elongated tube (12) to a fishing rod. The Applicant respectfully traverses the conclusion of the examiner that the tip (17) has as an integral part of it a first mounting section (27). The brace (27) is not described as part of the overall tip (17) and is a separate structure. Second, applicant respectfully traverses the conclusion of the examiner that the tip (17) of the Haber reference is “an elongated piece.” The examiner reasoned in response to the Applicant’s earlier arguments that: “The apertured magnetic tip member (17) of Haber is an elongated piece since it has a length.” Applicant respectfully requests clarification from the examiner. The Applicant understands that any three-dimensional object has to have a length as part of the three dimensions that define a solid object. Of course, using the examiner’s reasoning that having a length qualifies an object as “elongated”, then any three-dimensional shape could be

used as a 102 reference for a “elongated piece” required in the claims of this application. The effect of the examiner’s reasoning is to remove the adjective “elongated” from the claim as it modifies the term “piece” in Claim 1. This is contrary to basic patent law that each word of a claim must have a meaning and must be given effect. Environment Instrument v. Sutron Corp., 877 F2d. 1561, 1564 (Fed. Circ. 1989).

Next the examiner reasons that: “Haber shows mounting the elongated piece on the terminal end of the rod without removing or modifying any hardware on the rod. Applicant has not stated what this hardware is.” The Haber reference shows a rod (15) with a butt (16), a reel (18), a line (19), and guide rings (20, 21 22). At the terminal end of the rod (15), there is no guide ring but rather the Haber invention, which is placed at the end of the rod by the brace (27) mounting the tip (17). Remove the Haber invention and the terminal end of the rod is useless. This is in contrast to the applicant whose fly cast training device (10) mounts on the terminal eyelet (22) at the extreme end of the fly casting rod (20). The Haber reference has replaced a standard eyelet, like the eyelets shown as (20, 21, 22), by the brace (27), and tip (17). When the Applicant’s invention is removed, the fly rod may still function as a fly rod. The Applicant states, as requested by the examiner, that the hardware that Haber uses to replace the standard terminal eyelet on the rod is the brace (27) and the tip (17).

Regarding Claims 2-3, the examiner has also rejected these claims under 35 U.S.C. 102(b) as being anticipated by the Haber reference. Claim 2 adds the limitation that the elongated piece of the current invention is bent at a predetermined angle to the terminal end of a fly rod. Applicant respectfully requests what portion of the Haber tip (17) is bent at a predetermined angle to the fishing rod (15). In the Response to Arguments section of the 04/29/03 Office Action, the

Examiner takes the separate brace (27) of the Haber reference, makes it a portion of the magnetic tip member (17) of the Haber invention, and then says it is "clearly bent at an angle of 90°." The Examiner has taken two separate pieces shown in the Haber drawings, combined them into one, called them a single elongated piece and reasoned because the mounting brace (27) is bent, that it is "clearly bent at an angle of 90°" without any such disclosure in the Haber patent or any such limitation in the Haber claims. It is the elongated piece itself which must be bent at a predetermined angle as disclosed in the current invention for the Haber device to serve as a 102 reference for Claim 2. Claim 3 adds the further limitation that the predetermined angle is at least 90°. Applicant respectfully traverses the conclusion of the examiner that the tip (17) has an elongated portion bent at an angle of at least 90° to the terminal to the rod (15). The Haber reference tip (17) is not elongated, as was explained above. As such, the tip (17) is shown as an apertured tip member and an integral part of the rod and attached to the rod by the separate brace piece (27). There is no portion of the tip (17) that can be fairly described as "elongated" or bent at a predetermined angle. When thrown, the disc (36) follows the direction of the line (40) as constrained by the eyelets (20, 21, 22) and the bore (23) to initially travel in a direction parallel to the rod (15). The current invention constrains the throwing projectile (50), when correctly cast, to initially travel in a direction that is at the predetermined angle to the rod tip. This is how this invention functions to teach a proper fly casting motion. Consequently, the Haber reference does not show a means for mounting a throwing projectile onto a fly rod without removing or modifying any hardware on said fly rod, nor does it show how a throwing projectile is projected forward. In an approximate direction, a fly line would be projected forward. Moreover, nowhere in the Haber reference does it discuss or teach the desirability of making the throwing projectile a predetermined size shape and weight to approximate casting a particular type of fly line. It is known to one of skill in the art that a fly line is significantly different than lines used in either casting or spinning reels. It is the weight

of the fly line itself that makes the casting motion possible. This is in contrast to a spinning or bait casting motion where it is the weight of the lure that makes the cast possible. The lure that makes the casting motion possible and the line is made as light as possible for a particular application to avoid impeding the casting of the lure or weight tied to the end of the line.

Claim Rejections - 35 U.S.C. 103

Claims 4-11, 14-20 were rejected under 103 as being unpatentable over Haber. The Examiner says: "Haber does not show a method for teaching the proper motion for casting a fly line." Having conceded that point, the Examiner has conceded the patentability of these claims. As was explained in the application, a casting motion may with a fly rod and fly line are completely different and counter intuitive to the casting motions one makes with a bait casting or spin casting rod. This is initially explained in the application beginning at the bottom of page 3 and on page 4. This is explained again in the Summary of the Invention, where it is explained that an angler who attempts to throw the fly, as one would throw a spinning or bait casting lure, would have no success. One must learn the "tight loop" method of casting required for effective cast of a fly line. This is explained further in Figures 1 A and Figures 1B in the Detailed Description of the Drawings. It is respectfully requested that if the Examiner does not have experience in fishing generally and fly fishing in particular, that the Examiner consult with another Examiner who does have that experience to better understand the disclosure and claims of the current invention. When the Examiner follows with the statement that: "Haber does not show a method for teaching the proper motion for casting a fly line" with the statement that: "However, Haber makes a casting motion and throws a projectile (36) from throwing projectile section", it seems to that Application that the Examiner has missed the point of the Applicant's invention , how it works, and what it is designed to do. The Examiner goes on to state, for example, that: "In reference to Claim 5,

inherently throwing the projectile of Haber most closely approximates a particular type of line.” The Applicant strongly traverses this factual conclusion of the Examiner. There is nothing in the Haber disclosure that suggests a throwing projectile can or should approximate the behavior of a particular type of line. Indeed, the Haber invention is used with line and the line is central to the function of the Haber invention of preventing backlashes.

Applicant realleges and incorporates by reference herein arguments previously made in response to the § 102 rejection of Applicant’s Claims 1-3, 12 and 13. The dependent claims should be allowable if the independent claims are allowable.

Response to Arguments Section

The Applicant will here discuss the Response to Arguments Section of the Examiner’s First Office Action. Examiner concedes the retainer elements (44) (45) and are not a bore (36). Examiner then points out that the disk (36) in Figure 2 has an apparent unlabeled bore and goes on to conclude that: “A bore is required for the throwing projectile for the casting device to work.” One assumes the Examiner is referring to the unlabeled bore in the disk (36). However, this conclusion is incorrect. As is clearly shown in Figures 7 and 8 in alternate embodiments, no bore is required for the Haber invention to work. It is only necessary that the disk (36) or the alternate disk (49) or the cap (63) do not have bores, rather the line is tied to the anchor loop (66) or the opposite loops (53) (54). For the Haber device to work, it is only necessary that a portion of the line attached to one side of the disk by whatever means and a second terminal portion of the line attach to the other side of the disk by whatever means.

Applicant had argued in the Request for Continued Examination that: “...the tip (17) is

shown as an aperture tip member and an integral part of the rod and attached to the rod by the separate brace piece (27)." The Examiner apparently responds to this by saying: "Applicant argues the Examiner's conclusion that the tip (17) has an integral part of it a first mounting section (27). Claims 1, 12, and 17 did not mention integral." This response of the Examiner is somewhat unclear to the Applicant. However, in an attempt to respond, Applicant will say that the brace (27) attaches the tip (17) to the rod and together these two separate pieces become an integral part of the rod. This is in contrast to the Applicant's invention which is only temporarily attached to the rod and is not an integral part of the rod. Claims 1, 12, and 17 do not mention integral simply because the Applicant's invention is not an integral part of any rod and is easily mounted and easily removed from a rod so that it may be used on a variety of different rods to simulate a variety of different fishing lines and casting motions required for those fishing lines as is explained in the application. In Claim 1, a single elongated piece is claimed with a mounting section of the elongated piece and a throwing projectile section. This is in contrast to the separate Haber brace (27) and tip (17).

The Examiner responds to Applicant's arguments in the CAP that the tip (17) is not elongated by stating: "Clearly an object with a dimension larger than another dimension is elongated." The Examiner is redefining the term "elongated" in a different way than the dictionary definition. In Webster's Fifth Collegiate Dictionary, "elongated" is defined as "1: stretched out; 2: slender." The Applicant respectfully traverses the conclusion of the Examiner that a proper definition of the term "elongated" is an object with a dimension larger than another dimension.

The Examiner further argues that: "...It does not appear the rod of Haber has not been modified since the eyelet functions as a terminal eyelet, hence it appears the rod is built this way to

begin with and has not been modified.” This is in response to the Applicant’s arguments that on the terminal end of the rod (15) there is no guide ring, which is replaced by the Haber invention. Applicant pointed out that this differs from the current invention where the fly cast training device (10) is placed in a standard rod eyelet much like those shown in the Haber rod (15) as eyelets (20) (21) and (22). As is explained and as in claimed in the claims, the Applicant’s invention attaches to a standard fly rod without “removing or modifying any hardware on said fly rod.” Applicant does not believe the Examiner is stating that the rod, including the tip (17) shown in the Haber invention is a standard fishing rod like one will find in sporting good stores. If that is the Examiner’s argument, Applicant will respectfully request Examiner will provide some information to Applicant were one could find such a rod, since Applicant has been fishing over 50 years and has never seen one.

Examiner goes on to state that “Claim 2 recites the mounting section portion (27) of the elongated piece is been at a predetermined angle.” The Applicant is unsure what the Examiner is meaning here. It is presumed that the Examiner in using the term “Claim 2” is referring to the Applicant’s Claim 2. However, the Applicant does not use the reference number “27” in his application. Applicant does have a tube (12) with a rod mounting end (13) and a projectile end (14). As is explained and is shown in Figure 2, the approximate 5-inch length tube (12) has been approximate at mid-point of the tube at an angle of “90° +A°.” The Examiner is apparently referring to referring to the brace (27) of Haber, which is bent at an angle. However the rod mounting end (13), which the Examiner apparently considers equivalent to the brace (27), is specifically not described as bent, nor is it shown as bent, in Figure 2. Indeed, the rod mounting end (13) is necessarily straight and mounted parallel to the rod (20). It isn’t until the tube (12) passes through the terminal eyelet (22) that the tube (12) is bent. Consequently, it must be the

Haber tip (17) which must be bent at an angle for the Haber device to serve as a reference for Claims 2 and those claims that depend on Claim 2 or other claims that require a bend in the tube or elongated piece (Claim 12 and Claim 18).

The Examiner further reasons that: "If the prior art structure is capable of performing the intended use then it meets the claim." As it is explained above, the Haber cannot perform the intended use of the Applicant's invention of teaching a proper motion of making a "tight loop" fly casting motion. The Examiner goes on to argue that the disk (36) is inside the magnetized piece (28) by way of the aperture (23A) and element (44) also slide into aperture (23A). These statements in no way meet the argument of the Applicant that the disk (36) does not mount on the tip (17) by means of a bore in the disk (36), which is required in Claim 1 of the Applicant's application. The Examiner states: "The claims do not require the bore is the only way the throwing projectile is mounting on the fishing rod." Claim 1 and the claims that depend on Claim 1 require that said throwing projectile sides onto said throwing projectile section through said throwing projectile bore. Another independent claim, Claim 12, requires the means for mounting the throwing projectile onto a fly rod projectile so that the throwing projectile is projected forward in a particular direction. Using the "means for" language, reference is made to the application where the throwing projection is shown mounted on a bore. If there is an equivalent to mounting it on a bore, it would be covered under this, but the Examiner has not suggested what this equivalent may be or how it is shown in Haber.

Conclusion

It is believed the above fully responds to the action of the Examiner. Because the detailed action of the Examiner differed in substance from the section of the Office Action entitled